

Appln No. 10/733,822

Amdt date May 18, 2007

Reply to Office action of February 21, 2007

REMARKS/ARGUMENTS

Reconsideration of the Application is respectfully requested. Currently claims 1-27 are pending in the Application. Claims 1, 14 and 21 have been amended.

Claims 1, 2, 8-14, 16-21 and 23-27 have been rejected as allegedly anticipated by Laulom et al. The Examiner has indicated that Applicant's previously filed Declaration Under 37 C.F.R. § 1.131 failed to establish diligence from a date prior to March 18, 2003 to the filing date of Applicant's provisional application. The Examiner has indicated that it is not enough to merely allege diligence as was done in paragraph 6 of the declaration. Attached hereto is Applicant's Second Declaration Under 37 C.F.R. § 1.131 swearing behind the effective date of March 18, 2003 of Laulom et al. The declaration has provided additional details of diligence previously missing from paragraph 6 of the Declaration. Applicant respectfully submits that the Declaration has now effectively sworn behind the Laulom et al. at reference by providing the necessary diligence and the rejection based thereon should be withdrawn.

Claims 1-9, 11-16 and 18-27 have been rejected as allegedly obvious over Chambers in view of Gamblin. It is respectfully submitted that the claims as amended are not obvious over the cited combination. Both claims 1 and 14 have been amended to indicate that the beverage regulator, which allows a beverage to enter the reservoir through the connector opening while preventing the beverage from exiting through the connector opening, is also movable and allows the beverage to exit the beverage container directly without entering the reservoir. Neither Chambers nor Gamblin discloses the claimed beverage regulator which allows either the beverage to enter the reservoir on top of the food located therein or directly out of the beverage container without mixing with the food in the reservoir.

It is respectfully submitted that there is no teaching or suggestion from the references themselves for their combination as is required for a proper § 103 rejection. Gamblin simply discloses a straw having a one-way valve preventing the flow of liquid into a straw and does not disclose the claimed regulator for allowing liquid to enter into a beverage reservoir without returning into the beverage container. Even if Chambers and Gamblin were properly

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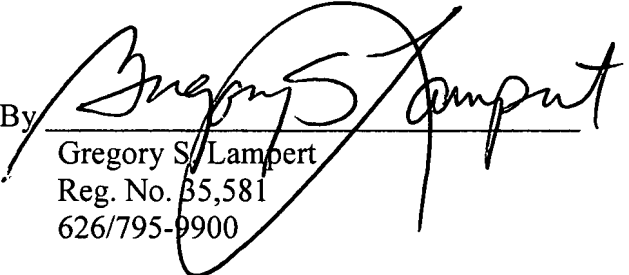
combinable, their combination would not result in the claimed invention. Their combination would be a container attachment for pop bottles as shown in Chambers with a straw disclosed by Gamblin which would prevent liquid from entering into the straw. The claimed invention recites a beverage regulator which allows the beverage to enter the reservoir or to exit the container without entering the reservoir.

Claim 21 recites a spiral regulator which is neither disclosed by Chambers nor Gamblin. Consequently, it is respectfully submitted that soda combination does not render the claimed invention obvious.

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is now in condition for allowance and, accordingly, early indication thereof is respectfully requested.

Respectfully submitted,
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DBP/vsj
Enclosure: Second declaration under 37 CFR § 1.131

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